

2. Plaintiffs Harry Conklin, Individually and on Behalf of the Estate of Sharon W. Conklin, Deceased and Carl Conklin, commenced this action on May 18, 2016 by filing an Original Petition in the 16th Judicial District Court of Denton County, Texas, styled *Harry Conklin, Individually and on Behalf of the Estate of Sharon W. Conklin, Deceased, and Carl Conklin v. Corinth Health Care, LLC d/b/a Corinth Rehabilitation Suites on the Parkway and THI of Texas, LLC*, Cause No. 16-03895-16 (“State Court Action”). A copy of the docket sheet and all other process, pleadings, and orders served on Defendants and on file in the State Court Action are attached hereto as **Exhibit A**, as required by 28 U.S.C. § 1446(a).

3. Defendants were each served with process on May 20, 2016, as indicated on the Notice of Service of Process of Plaintiffs’ Original Petitions, included in **Exhibit A**.

4. This is a proceeding in which Plaintiffs allege various causes of action against Defendants, arising from and concerning the provision of healthcare to Plaintiffs’ decedent, Sharon W. Conklin, while she was a resident at Corinth Rehabilitation, a skilled nursing facility.

5. This Joint Consent Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b)(2)(B) in that all Defendants were served on May 20, 2016 and are therefore removing within thirty (30) days of receipt of the “initial pleading setting forth the claim for relief upon which such action or proceeding is based . . .”

6. Pursuant to Local Rule CV-81(c)(1) and (3), the following is a list of the parties and of the attorneys involved in the removed action:

- a. Plaintiffs: Harry Conklin, Individually and on Behalf of the Estate of Sharon W. Conklin, Deceased and Carl Conklin (pending)

- b. Counsel for Plaintiffs: Patrick W. Powers (SBN 24013351) and Ernest C. Tosh (SBN 20146100), Powers Taylor, LLP, 8150 North Central Expressway, Suite 1575, Dallas, Texas 75206, (214) 239-8900
- c. Defendants: Corinth Health Care, LLC d/b/a Corinth Rehabilitation Suites on the Parkway and THI of Texas, LLC (pending)
- d. Counsel for Defendants: Lori D. Proctor (SBN 16682400) Cooper & Scully, PC, 815 Walker Street, Suite 1040, Houston, Texas, 77002 (713) 236-6800, and Jackie Cooper (SBN 24050861), Cooper & Scully, PC, 900 Jackson, Suite 100, Dallas, Texas 75202, (214) 712-9500

7. Pursuant to Local Rule CV 81(c)(4), Defendants state that Plaintiffs requested a trial by jury in the State Court Action (*see* Original Petition, ¶ 38), and Defendants will request a trial by jury in the instant action when they file their Answers.

8. Pursuant to Local Rule CV 81(c)(5), this case is being removed from the District Court of the 16th Judicial District, located at 1450 East McKinney Street, Denton, Texas 76209. Pursuant to 28 U.S.C. § 1446(d), the Defendants will promptly serve a copy of this Joint Consent Notice of Removal upon counsel for the Plaintiffs and will promptly file a copy of the same with the District Clerk of the 16th Judicial District Court of Denton County, Texas.

**JURISDICTIONAL FACTS, ARGUMENT AND AUTHORITY
DEMONSTRATING REMOVAL IS PROPER**

9. Upon information and belief, at all times relevant to the Original Petition, Plaintiffs' decedent was a citizen and resident of Texas. Upon information and belief, the named Plaintiffs are also citizens and residents of Texas. *See* Original Petition, ¶¶ 2-4.

10. At the time of commencement of this proceeding and at all times at issue, Defendant Corinth Health Care, LLC d/b/a Corinth Rehabilitation Suites on the Parkway was and is a limited liability company organized and existing under the laws of Delaware. A limited liability company is assigned the citizenship of its members. *See Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

11. The sole member of Defendant Corinth Health Care, LLC d/b/a Corinth Rehabilitation Suites on the Parkway is THI of Texas, LLC. For federal diversity jurisdiction purposes, the citizenship of Defendant Corinth Health Care, LLC d/b/a Corinth Rehabilitation Suites on the Parkway must therefore be determined by the citizenship of its sole member, THI of Texas, LLC.

12. At the time of commencement of this proceeding and at all times at issue, Defendant THI of Texas, LLC was and is a limited liability company organized and existing under the laws of Delaware.

13. The sole member of Defendant THI of Texas, LLC is THI of Baltimore, Inc., a Delaware corporation with its principal place of business in the state of Maryland. For the purposes of establishing federal diversity jurisdiction, “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business . . .” 28 U.S.C. § 1332(c).

14. Accordingly, for federal jurisdiction purposes, THI of Texas, LLC is a citizen of both Delaware and Maryland given that its sole member, THI of Baltimore, Inc. is a Delaware corporation with its principal place of business in Maryland. As a result, Defendant Corinth Health Care, LLC d/b/a Corinth Rehabilitation Suites on the Parkway is also a citizen of both

Delaware and Maryland, as its sole member, THI of Texas, LLC is a citizen of both Delaware and Maryland.

15. Complete diversity of citizenship exists between the Plaintiffs and all Defendants pursuant to 28 U.S.C. § 1332, as Plaintiffs and all Defendants are citizens of different states.

16. Venue lies in this Court, i.e., the United States District Court for the Eastern District of Texas, Sherman Division, pursuant to 28 U.S.C. § 1441(a), because the original action was filed in a state court in the 16th Judicial District Court of Denton County, Texas, located within the Eastern District of Texas, Sherman Division. Venue therefore is proper in this Court because it is in the “district and division embracing the place where such action is pending.” *Id.*

17. Plaintiffs’ Original Petition alleges that the negligent acts and omissions by Defendants were the proximate cause of the death of Plaintiffs’ decedent. These proceedings are of a civil nature and involve a controversy wholly between citizens of different states. The value of the matter in dispute in said cause, upon information and belief, exceeds the sum of Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs, as appears from the allegations contained in Plaintiffs’ Original Petition. Plaintiffs seek exemplary damages and actual damages from Defendants, including damages for pain and suffering of decedent, mental anguish of decedent, past medical expenses incurred for decedent’s treatment, funeral expenses incurred by decedent’s estate, and the pecuniary losses and loss of companionship and society, inheritance, and household services of Plaintiffs. *See* Original Petition ¶¶ 34-37. In light of the allegations alleged by Plaintiffs, it is sufficiently probable and/or certain that the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

PRAYER

18. **WHEREFORE**, Defendants Corinth Health Care, LLC d/b/a Corinth Rehabilitation Suites on the Parkway and THI of Texas, LLC ask this Court to remove the action referred to as *Harry Conklin, Individually and on Behalf of the Estate of Sharon W. Conklin, Deceased, and Carl Conklin v. Corinth Health Care, LLC d/b/a Corinth Rehabilitation Suites on the Parkway and THI of Texas, LLC*, Cause No. 16-03895-16 and filed in the in the 16th Judicial District Court of Denton County, Texas, to this Federal District Court.

Respectfully submitted,

COOPER & SCULLY, P.C.

By: /s/ Lori D. Proctor

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**ATTORNEYS FOR DEFENDANTS
CORINTH HEALTH CARE, LLC D/B/A
CORINTH REHABILITATION SUITES
ON THE PARKWAY and THI OF
TEXAS, LLC**

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing document was served on counsel for the Plaintiffs in this matter pursuant to the Federal Rules of Civil Procedure on the 13rd day of June 2016.

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/s/ Lori D. Proctor
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